

**STATUS REPORT
ON THE IMPLEMENTATION
OF HOUSING FINANCE SECTOR REFORM
IN KAZAKSTAN**

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ABSTRACT

On September 6, 1993, President Nazarbaev issued Presidential Decree No. 1344, *"On a New Housing Policy,"* which, along with subsequent regulations of the Cabinet of Ministers, set out a detailed program for reform of the housing and housing finance sectors in the Republic of Kazakhstan (ROK). Central to the implementation of the new housing policy was the creation of the Ministry of Construction and Housing ("Minstroy") to administer all ROK public sector housing programs and a specialized housing credit institution, Zhilstroy Bank ("Zhilstroy"), which would serve both as the administrator of government housing finance subsidy programs and the institution charged with the development of a market-based housing finance system in Kazakhstan.

Since November, 1993 the U.S. Agency for International Development ("USAID"), through ICMA, has provided technical assistance to Minstroy and Zhilstroy to assist them in designing and implementing market-based housing and housing finance programs and to provide training for the management and staff of these and other Kazakhstani institutions. The consultant's visit to Kazakhstan from September 17 through September 22, 1995, was a continuation of this technical assistance. There were two purposes for the consultant's visit. The first was to meet with senior officials from Minstroy and Zhilstroy to determine what progress had been made in housing finance sector reform and what new housing finance programs had been introduced or were under consideration. The second was to work with ICMA Almaty and Washington, D.C senior staff to develop a work plan for housing finance technical assistance and training for 1996.

EXECUTIVE SUMMARY

A. BACKGROUND AND PURPOSE

Housing finance consultant Elaine Weis visited ICMA/Almaty from September 17 through September 22, 1995 to work with Resident Advisors Jon Wegge and John Stern, Peter Epstein, Barry Veret and Marilyn Brody on a work plan for housing finance technical assistance (TA) and training for FY 1995-1996. Weis met with Kazakstani counterparts at Minstroi, the National Bank of Kazakhstan and Zhilstroi Bank and representatives of Barent's who are working on bank training and bank reform projects to determine the status of various housing finance reform initiatives. Several recent proposed resolutions and regulations were analyzed. This report summarizes the key recent developments in housing finance policy and programs in Kazakhstan and proposes recommendations for future housing finance TA and training.

B. SUMMARY AND CONCLUSIONS

1. Housing Finance Reform Initiatives

A number of housing finance reform initiatives have been undertaken by the Government of Kazakhstan (GOK), the National Bank of Kazakhstan (NBK) and other institutions since Weis's last visit to Kazakhstan in April, 1995. A new banking act has been enacted which, among other measures, limits banking activities and permits the authorization of investment banks and non-banking financial institutions. Decree No. 1209, "Concerning the Measures on Reduction of the Cost of Construction", adopted on August 31, 1995, prohibited: 1) local administrations from charging infrastructure costs to housing under construction; 2) local administrations from taking finished apartments to the municipality and its agencies at no cost and allocating the cost of these units to the remaining housing units; and 3) requiring that all parties involved in construction funded with foreign or state budget resources comply with the regulations governing competitive tenders for construction. Draft decrees and regulations relating to the disposition of unfinished housing projects and mobilizing private financial resources for housing have been sent to the Kazakstani Cabinet of Ministers. According to Minstroi officials, the Cabinet of Ministers is expected to sign the regulations by the end of September, 1995.

ICMA has not been involved in the drafting of these legal and regulatory proposals and, other than the Banking Act, it is not known to what extent other AID advisors may have had input. However, the proposed regulations do incorporate a number of market concepts endorsed by ICMA and other AID contractors. These include privatization of GOK-owned properties, competitive bidding, market prices for housing, GOK contribution of unfinished construction as an incentive to private investors to complete construction, providing financing for the purchase of the property being privatized and funds mobilization for housing. Zhilstroi Bank appears to have adopted several concepts proposed by ICMA: utilizing a contract for sale instead of a mortgage as a financing instrument to strengthen the bank's collateral position, formation of home owners associations to pool home buyers' funds and manage condominiums and pricing loans to provide the bank with a positive real rate of return.

The draft proposals raise some issues of concern, particularly the provisions of the draft resolutions which conflict with the recently enacted Decree "On Banks and Banking Activity in the Republic of Kazakhstan" (the Banking Act). These conflicts demonstrate how critical it is for housing finance initiatives to be coordinated with financial sector reform. Because the GOK is proceeding with proposals to implement the 1993 Presidential Decree "On a New Housing Policy" and is considering amendments to the Decree, it is important for ICMA to become more involved with the GOK officials and working groups responsible for drafting housing finance reform proposals, particularly at Ministroi and Zhilstroi Bank. ICMA participation in these working groups could help assure that the proposals made by the working groups are consistent with overall market reform policy and programs, particularly in the area of financial sector reform. ICMA could function as a liaison between housing reform and financial sector reform.

3. Training and Technical Assistance

In April, 1995, ICMA initiated its housing finance training program to prepare bankers to organize and manage housing finance operations. The first series of five courses will be completed in November, 1995. The training program has been well received by the participants. ICMA is exploring options for institutionalizing the real estate finance training program. The current program is offered in cooperation with the KPMG Peat Marwick/Barent's banker training program. It is recommended that real estate finance training be integrated into this banker training program in whatever institution(s) becomes the principal provider of banker training in Kazakhstan. In the interim, ICMA and Barent's should agree that one or two courses be included in the Barent's program beginning in March or April, 1996. Specific elements of the ICMA real estate finance training program also may be appropriate for non-banking professionals.

ICMA has not offered extensive technical assistance (TA) to individual banks. ICMA has responded to requests for TA on specific proposals developed by Zhilstroi Bank and has organized meetings at Zhilstroi and other banks for visiting instructors in the real estate finance training program. Other banks (Igilik, Alem Bank, and Turan Bank) are beginning to seriously consider creating real estate finance departments and have indicated that they would like ICMA to provide TA to support their efforts. It is recommended that ICMA offer TA at two levels: 1) manuals of policies, procedures and documents which would be given to banks considering establishing real estate loan departments and 2) limited targeted TA for those institutions which have developed at least some plans and programs on their own initiative.

C. DISPOSITION OF UNFINISHED CONSTRUCTION

Two proposed decrees and regulations - "Concerning Further Developments of Housing Markets" and "Concerning Disposition of Unfinished Construction", along with proposed internal regulations for Zhilstroi Bank, deal with the disposition of the thousands of GOK-owned unfinished buildings throughout Kazakhstan. Ministroi, the State Property Committee ("GKI") and the State Privatization Committee will have authority over the disposition of these unfinished construction projects.

The GOK intends to dispose of all unfinished state-owned housing construction projects, including projects owned by state-owned enterprises, agencies and organizations, which

were terminated for lack of the funding or “technical resources” needed for completion or on which construction was suspended. Housing projects which are less than 50% completed will be sold at auction and housing projects 50% or more complete are to be given to Zhilstroi Bank as a contribution to the charter fund of the bank.

1. Unfinished Housing Projects Less than 50% Complete

Construction projects in which construction is less than 50 percent completed will be sold by the original owners of the projects, i.e. the GOK and state-owned enterprises, organizations and agencies, through competitive sealed bid auctions. The state entities will retain a right in the finished construction project in proportion to the ratio of the cost of construction already completed to the total cost of the completed building, based on current prices as of the date of the competitive bid.

The regulations propose two types of competitive sale: the investment bid and the commercial bid. In both cases, the winning bidder has the right to sell the finished units. An investment bid requires that the bidders invest the amount necessary to complete construction of the project and commit to complete construction within the time specified in the bid information package. The winning bid in an investment competition will be the bid with the shortest time to complete construction. A commercial bid requires the winning bidder to purchase the unfinished building and complete construction within the time specified. The winning bid in a commercial competition will be the bid with the highest price for the unfinished building.

The sale at auction of housing projects which are less than 50% complete raises practical questions about the market value of these projects and their attractiveness to investors. The retention by the GOK of ownership rights to a percentage of the current value of the completed building may make these projects less attractive to prospective investors. The actual construction costs already incurred by the GOK may bear no relationship to the current market value of the project when completed, particularly in cases where construction quality was poor or the improvements have deteriorated.

2. Unfinished Housing Projects 50% or More Complete

The regulation proposes that construction projects in which construction is at least 50 percent complete be transferred to the charter fund of Zhilstroi Bank as a capital contribution. The contribution of unfinished housing projects to Zhilstroi Bank is sound in concept, but may not be legal under current banking laws and regulations. Specifically, it may not be legal under the Banking Act for Zhilstroi to own the projects and to include the value of the projects in the charter fund of the bank. Zhilstroi Bank may have to form an investment bank or non-banking financial institution (NBFI) subsidiary to receive the unfinished projects from the GOK and hold the completed properties until title is conveyed to the buyers of the completed housing units.

Zhilstroi Bank proposes two methods of financing the completion and purchase of the finished units in the projects contributed to the institution by the GOK. The first is designed for buyers who are able to deposit the full cost to complete construction of the building. Zhilstroi will open a master account - “Zhilsberschet” - for each unfinished building or complex and will establish individual Zhilsberscheta for each prospective owner under the

master account agreement. The participants will deposit their pro rata shares of the cost to complete the building(s) into their accounts. Zhilstroi will not pay interest on the funds deposited in Zhilsberscheta. The second method of financing is for an individual to open his own housing savings-and-loan account, which will be interest bearing. The depositor can later apply to Zhilstroi to transfer the balance in his account to the Zhilsberschet established for the building in which the individual wishes to purchase a flat.

When the building has been finished, Zhilstroi will close the master Zhilsberschet and will enter into a contract for sale agreement with each individual buyer for the balance of the cost of the unit for a period of up to 10 years at an interest rate established by Zhilstroi, which may be variable, indexed or employ another method of computation. The owners will form a home owners association which will enter into an agreement with Zhilstroi to maintain and manage the building until title to the entire property has been conveyed to the individual owners and the home owners association.

Because the housing units are to be sold on a contract for sale, not a mortgage, title to the finished flats will not be transferred to the buyers until the full amount financed has been repaid. As each owner pays off his loan, the bank will register title to the unit in the name of the owner. When all owners have paid off their loans, the bank will register title to the building in the name of the home owners association.

In the absence of specific laws governing the rights of the parties under a contract for sale, there is uncertainty about what rights the home purchaser has during the term of the contract. Zhilstroi may wish to consider a lease-purchase arrangement instead of a contract for sale because the laws regarding the rights and responsibilities of tenants and landlords may be more clearly defined in current Kazakstani law than the rights of buyers and sellers under a contract for sale. Lease-purchase financing has been introduced successfully in Russia.

D. FUNDS MOBILIZATION

Another draft Resolution of the Cabinet of Ministers, "Concerning the Procedures for Establishing and Utilizing Nonbudgetary Housing Construction Funds" authorizes the formation of public-private joint stock companies ("funds") to invest in and finance unfinished construction, new construction, infrastructure and housing rehabilitation. Local administrations, Zhilstroi Bank, enterprises, other organizations and individual shareholders would be the founders of funds in oblasts and rayons.

The goals of the funds authorized by the proposed resolution are to attract funds for housing from enterprises, organizations, and individuals by issuing securities; to purchase, complete and build housing and sell the units; to encourage individual participation in construction financing and purchasing housing; to facilitate the improvement of housing construction techniques; to provide residential development areas with adequate engineering-and-transportation infrastructure; and to encourage competition in the housing construction sector.

The funds would be authorized to build social housing and social infrastructure, invest in infrastructure for housing development, build and repair communal services, provide housing allowances and purchase, rehabilitate and sell affordable housing

units. The funds also would be used as a source of long term funding to support mortgage lending by Zhilstroi Bank.

The concept of public-private partnerships to mobilize funds for the housing sector is sound and has been recommended to the GOK by ICMA and other AID advisors. However the proposed resolution raises the same issues of conflict of law with the Banking Act which were discussed in relation to the proposal for Zhilstroi to own and dispose of unfinished housing projects. Article 8 of the Banking Act prohibits banks from “participation in the charter funds of legal entities.” Furthermore, banks are prohibited from engaging in real estate “trade”. The only solution to this problem may be for Zhilstroi and the other proposed organizers to form an investment bank licensed by the NBK.

Other provisions of this resolution appear to violate the Banking Act. It would be illegal for the funds themselves to issue bills of exchange since a bill of exchange would be considered a deposit under the Banking Act and only licensed deposit banks are authorized to accept deposits. Since loan transactions are defined as banking activities and only banks may engage in banking activities, it also may be illegal for the funds to engage in lending.

In addition to these fundamental legal issues, there are other apparent problems with the proposal. The proposal creates another layer of para-statal bureaucracy between the government and the market which could interfere with, rather than encourage, the development of the housing market. The financing resources mobilized by the funds may not be sufficient to achieve even a part of their objectives. It may not be realistic to expect that individual and institutional investors will purchase shares in the funds, since the principal activities of the fund may not generate sufficient profits to pay investors a competitive rate of return.

E. HOUSING FINANCE TRAINING

1. Advanced Professional Training Program in Real Estate Finance

In April, 1995, ICMA initiated its housing finance training program to prepare bankers to organize and manage housing finance operations. The first series of five courses will be completed in November, 1995. The training program has been well received by the participants. Through the training program, ICMA now has good materials about real estate lending which can be compiled into training manuals which will be made available to banks, training institutes and other organizations.

ICMA is exploring options for institutionalizing the real estate finance training program. The current program is offered in cooperation with the KPMG Peat Marwick/Barent's banker training program through the Kazakhstan International Institute of Banking (KIIB). Other options include KIMEP, the Academy of Management, the School of Architecture, the NBK's Gylim Institute and a new program being developed with funding from the Soros Foundation.

It is recommended that real estate finance training be integrated into the banker training program in whatever institution becomes the principal provider of banker training in Kazakhstan. In the interim, the managers of the Barent's program are receptive to

including one or more housing finance courses as electives in the banker training curriculum. ICMA and Barent's should agree that one or two courses be included in the Barent's program beginning in March or April, 1996. If there is a market for these classes, they could become a permanent part of the Barent's curriculum.

Specific elements of the ICMA real estate finance training program may be appropriate for non-banking professionals. ICMA should explore the potential demand for real estate finance seminars offered through the School of Architecture, the Real Estate Association and other organizations.

F. TECHNICAL ASSISTANCE TO INDIVIDUAL BANKS

To date, extensive housing finance technical assistance (TA) has not been provided to individual banks. ICMA has responded to requests for TA on specific proposals developed by Zhilstroi Bank and has organized meetings at Zhilstroi and other banks for visiting instructors in the real estate finance training program. ICMA will continue to respond to specific requests from Zhilstroi.

Other banks (Igilik, Alem Bank, and Turan Bank) are beginning to seriously consider creating real estate finance departments and have indicated that they would like ICMA to provide TA to support their efforts. ICMA should determine the extent of TA it is willing and able to provide to individual banks. Experience in other countries has shown that TA to set up a housing finance department can involve a significant level of effort.

It is recommended that ICMA offer TA at two levels: 1) manuals of policies, procedures and documents which would be given to banks considering establishing real estate loan departments and 2) limited targeted TA for those institutions which have developed at least some plans and programs on their own initiative.

TABLE OF CONTENTS

STATUS REPORT ON THE IMPLEMENTATION OF HOUSING FINANCE SECTOR REFORM IN KAZAKSTAN

A.	<u>BACKGROUND AND PURPOSE</u>	1
B.	<u>SUMMARY AND CONCLUSIONS</u>	1
1.	Housing Finance Reform Initiatives	1
2.	Opportunities for Policy Input	2
3.	Training and Technical Assistance	2
C.	<u>DISPOSITION OF UNFINISHED CONSTRUCTION</u>	3
1.	Unfinished Housing Projects Less than 50% Complete	4
2.	Unfinished Housing Projects 50% or More Complete	5
D.	<u>MOBILIZATION OF FUNDS FOR HOUSING AND INFRASTRUCTURE</u>	7
E.	<u>INTEGRATION OF HOUSING FINANCE SECTOR REFORM AND FINANCIAL SECTOR REFORM</u>	10
F.	<u>HOUSING FINANCE TRAINING</u>	10
1.	Advanced Professional Training Program in Real Estate Finance	10
2.	Institutionalizing Real Estate Finance Training	11
G.	<u>TECHNICAL ASSISTANCE TO INDIVIDUAL BANKS</u>	12
ANNEX A:	<u>PROPOSED RESOLUTIONS AND REGULATIONS FOR THE DISPOSITION OF UNFINISHED CONSTRUCTION</u>	
ANNEX B:	<u>PROPOSAL TO MOBILIZE NON-BUDGET FUNDS FOR HOUSING</u>	

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A number of housing finance reform initiatives have been undertaken by the Government of Kazakhstan (GOK), the National Bank of Kazakhstan (NBK) and other institutions since Weis's last visit to Kazakhstan in April, 1995. A new banking act has been enacted which, among other measures, limits banking activities and permits the authorization of investment banks and non-banking financial institutions. Decree No. 1209, "Concerning the Measures on Reduction of the Cost of Construction", adopted on August 31, 1995, was designed to reduce construction by prohibiting: 1) local administrations from charging infrastructure costs to housing under construction; 2) local administrations from taking finished apartments to the municipality and its agencies at no cost and allocating the cost of these units to the remaining housing units; and 3) requiring that all parties involved in construction funded with foreign or state budget resources comply with the regulations governing competitive tenders for construction.

Draft decrees and regulations relating to the disposition of unfinished housing projects and mobilizing private financial resources for housing have been sent to the Kazakstani Cabinet of Ministers. According to Minstroï officials, the Cabinet of Ministers was expected to sign the regulations by the end of September, 1995. Weis obtained copies of these draft documents, which were translated to English and are included in the annexes to this report. Several recommendations for amendment of the regulations have been made.

ICMA has not been involved in the drafting of these legal and regulatory proposals and, other than the Banking Act, it is not known to what extent other AID advisors may have had input. However, the proposed regulations do incorporate a number of market concepts endorsed by ICMA and other AID contractors. These include privatization of GOK-owned properties, competitive bidding, market prices for housing, GOK

contribution of unfinished construction as an incentive to private investors to complete construction, providing financing for the purchase of the property being privatized and funds mobilization for housing. Zhilstroi Bank appears to have adopted several concepts proposed by ICMA: utilizing a contract for sale instead of a mortgage as a financing instrument to strengthen the bank's collateral position, formation of home owners associations to pool home buyers' funds and manage condominiums and pricing loans to provide the bank with a positive real rate of return.

The draft proposals raise some issues of concern, particularly the provisions of the draft resolutions which conflict with the recently enacted Decree "On Banks and Banking Activity in the Republic of Kazakstan" (the Banking Act). These conflicts demonstrate how critical it is for housing finance initiatives to be coordinated with financial sector reform. However, since the proposals are currently before the Cabinet of Ministers, there may be little opportunity to recommend amendments before the proposals are enacted. The ministries and agencies which drafted the proposals may not be willing to consider suggestions at this late date unless the National Bank of Kazakstan (NBK) raises objections. If the Cabinet of Ministers sends any of the proposals back for further consideration, it is recommended that these legal and regulatory issues be raised and the proposals be amended to address the issues.

2. Opportunities for Policy Input

Because the GOK is proceeding with proposals to implement the 1993 Presidential Decree "On a New Housing Policy" and is considering amendments to the Decree, it is important for ICMA to become more involved with the GOK officials and working groups responsible for drafting housing finance reform proposals, particularly at Ministroi and Zhilstroi Bank, if ICMA is to have any influence on housing reform policy. The GOK will implement its program with or without the assistance of U.S. advisors. ICMA participation in these working groups could help assure that the proposals made by the working groups are consistent with overall market reform policy and programs, particularly in the area of financial sector reform. ICMA could function as a liaison between housing reform and financial sector reform. For example, the apparent conflicts of law regarding created by the new proposals could have been avoided or resolved if the officials responsible for drafting the proposals had been made aware of the potential conflicts.

3. Training and Technical Assistance

In April, 1995, ICMA initiated its housing finance training program to prepare bankers to organize and manage housing finance operations. The first series of five courses will be completed in November, 1995. The training program has been well received by the participants. Through the training program, ICMA now has good materials about real estate lending which can be compiled into training manuals for future use by banks, training institutes and other organizations.

ICMA is exploring options for institutionalizing the real estate finance training program. The current program is offered in cooperation with the KPMG Peat Marwick/Barent's banker training program through the Kazakstan Institute of International Banking (KIIB).

It is recommended that real estate finance training be integrated into the banker training program in whatever institution(s) becomes the principal provider of banker training in Kazakhstan. In the interim, the managers of the Barent's program are receptive to including one or more housing finance courses as electives in the banker training curriculum. ICMA and Barent's should agree that one or two courses be included in the Barent's program beginning in March or April, 1996. If there is a market for these classes, they could become a permanent part of the Barent's curriculum. Specific elements of the ICMA real estate finance training program also may be appropriate for non-banking professionals.

ICMA has not offered extensive technical assistance (TA) to individual banks. ICMA has responded to requests for TA on specific proposals developed by Zhilstroi Bank and has organized meetings at Zhilstroi and other banks for visiting instructors in the real estate finance training program. Other banks (Igilik, Alem Bank, and Turan Bank) are beginning to seriously consider creating real estate finance departments and have indicated that they would like ICMA to provide TA to support their efforts. It is recommended that ICMA offer TA at two levels: 1) manuals of policies, procedures and documents which would be given to banks considering establishing real estate loan departments and 2) limited targeted TA for those institutions which have developed at least some plans and programs on their own initiative.

C. DISPOSITION OF UNFINISHED CONSTRUCTION

Two proposed decrees and regulations - "Concerning Further Developments of Housing Markets" and "Concerning Disposition of Unfinished Construction", along with proposed internal regulations for Zhilstroi Bank, deal with the disposition of the thousands of GOK-owned unfinished buildings throughout Kazakhstan. Minstroi, the State Property Committee ("GKI") and the State Privatization Committee will have authority over the disposition of these unfinished construction projects. Within one month of the effective date of the regulations, oblast and the Almaty City administrations are to compile a complete list of all unfinished construction projects financed with state budget resources, including detailed information on each project. Within two months of the effective date of the regulations, the State Privatization Committee and Zhilstroi Bank, along with Minstroi and the Ministry of Social Protection and other ministries, are to submit proposals to the GOK for utilization of outstanding housing coupons.

The GOK intends to dispose of all unfinished state-owned housing construction projects, including projects owned by state-owned enterprises, agencies and organizations, which were terminated for lack of the funding or "technical resources" needed for completion or on which construction was suspended. Housing projects which are less than 50% completed will be sold at auction and housing projects 50% or more complete are to be given to Zhilstroi Bank as a contribution to the charter fund of the bank.

1. Unfinished Housing Projects Less than 50% Complete

Construction projects in which construction is less than 50 percent complete will be sold by the original owners of the projects, i.e. the GOK and state-owned enterprises,

organizations and agencies, to legal or natural persons through competitive sealed bid auctions. Disposition of unfinished construction through competitive sale will be administered by committees including representatives from Minstroy, GKI, the State Privatization Committee and the local administration for the area in which the subject property or properties are located. Each committee will establish the procedures for the competitive sale, subject to the regulations.

The original owner the construction project will transfer its rights in the property to state commercial development companies or oblast construction committees. The state entities which owned the properties will retain a right in the finished construction project in proportion to the ratio of the cost of construction already completed to the total cost of the completed building, based on current prices as of the date of the competitive bid.

The regulations propose two types of competitive sale: the investment bid and the commercial bid. In both cases, the winning bidder has the right to sell the finished units. An investment bid requires that the bidders invest the amount necessary to complete construction of the project and commit to complete construction within the time specified in the bid information package. An investment competition may be open to any legal or natural person or closed, that is, limited to a list of qualified bidders as determined by the committee. The winning bid in an investment competition will be the bid with the shortest time to complete construction. The winning bidder in an investment competition will be granted property rights in a proportional share of the project, based on the amount of his investment. He has the right to sell the units in which he has been granted property rights. A commercial bid requires the winning bidder to purchase the unfinished building and complete construction within the time specified. The winning bid in a commercial competition will be the bid with the highest price for the unfinished building. The proceeds from a commercial bid will be paid to the original owner up to the cost, at current prices, of the construction completed and to the organizer of the bid. Any balance remaining will be contributed to Zhilstroy Bank.

The sale at auction of housing projects which are less than 50% complete raises practical questions about the market value of these projects and their attractiveness to investors. The retention by the GOK of ownership rights to a percentage of the current value of the completed building may make these projects less attractive to prospective investors. The actual construction costs already incurred by the GOK may bear no relationship to the current market value of the project when completed, particularly in cases where construction quality was poor or the improvements have deteriorated. There is also some question whether the actual cost (including cost overruns) incurred by the inefficient state construction companies should be the basis for determining the GOK's share of the proceeds from the sale of the completed units.

Another negative feature is that it appears that a winning bidder will be required to maintain the property in residential use, even if that is not the highest and best use of the property. In some cases, the best use of the property would be to demolish whatever improvements have been completed and convert the property to commercial or mixed use.

2. Unfinished Housing Projects 50% or More Complete

The regulation proposes that construction projects in which construction is at least 50 percent completed be transferred to the charter fund of Zhilstroi Bank as a capital contribution. State commercial developers would be the developers for these projects. Financing for completion of the projects would be provided in part by deposits of the public in "housing savings and loan accounts" ("Zhilsberschet") and the balance through loans from Zhilstroi Bank at a 5 percent interest rate for a maximum maturity of 10 years.

Zhilstroi Bank would be required to reserve 20 percent of the completed units for the GOK or other state-owned enterprise, agency or organization which was the original owner of the property for allocation to people who are on the housing waiting list. The net proceeds from the sale of projects less than 50% complete through competitive bidding, after deducting the cost of the auction, are to be transferred to Zhilstroi Bank to reimburse Zhilstroi Bank for the revenue lost from reserving 20 percent of the units for people on the waiting list.

Zhilstroi Bank proposes two methods of financing the completion and purchase of the finished units in the projects contributed to the institution by the GOK. The first is designed for people who are able to deposit the full cost to complete construction of the building. Zhilstroi will open a master account - "Zhilsberschet" - for each unfinished building or complex and will establish individual Zhilsberscheta for each prospective owner under the master account agreement. The participants will deposit their pro rata shares of the cost to complete the building(s) into their accounts. Zhilstroi will not pay interest on the funds deposited in Zhilsberscheta. When the building(s) is completed, Zhilstroi will close the master Zhilsberschet and will enter into a contract for sale agreement with each individual buyer for the balance of the cost of the unit for a period of up to 10 years at an interest rate established by Zhilstroi, which may be variable, indexed or employ another method of computation. Any person who deposits the full amount of his pro-rata share of the cost of completion up-front can obtain a mortgage with a maturity of up to 12 years.

The second method of financing is for an individual to open his own housing savings- and -loan account, which will be interest bearing. The depositor can later apply to Zhilstroi to transfer the balance in his account to the Zhilsberschet established for the building in which the individual wishes to purchase a flat.

Because the housing units are to be sold on a contract for sale, not a mortgage, title to the finished flats will not be transferred to the buyers until the full amount financed has been repaid. As each owner pays off his loan, the bank will register title to the unit in the name of the owner. When all owners have paid off their loans, the bank will register title to the building in the name of the home owners association.

When the building(s) has been finished, the owners will form a home owners association which will enter into an agreement with Zhilstroi to maintain and manage the building until title to the entire property has been conveyed to the individual owners and the home owners association. Zhilstroi will maintain property insurance on the building(s) and will pro rate the insurance premium among the owners. It is

recommended that each owner's pro rata share of the insurance premium be added to his loan payment each year.

The contribution of unfinished housing projects to Zhilstroi Bank is sound in concept, but may be illegal under current banking laws, regulations and prudential banking practices. Specifically, it may not be legal under the Banking Act for Zhilstroi to own the projects and to include the value of the projects in the charter fund of the bank. The apparent conflicts of law between the proposed regulations and the Banking Act discussed below must be resolved before the GOK and Zhilstroi can implement the proposals for disposing of unfinished housing projects.

The contribution of real estate to the charter fund of Zhilstroi and Zhilstroi's ownership of the projects for 10 years or more may not be legal under the. § 16.2 of the Banking Act states: "The founders and shareholders of a bank shall pay for the acquired shares only with money." § 16.6 states: "An increase to the charter fund of a bank may take place by means of: a) the issue of additional shares, including at the expense of capitalization of the profit of the bank and the exchange of the bank's bonds for its shares; b) increasing the nominal value of the shares." The NBK will have to determine whether the contributed real estate can be included in the charter fund of the bank.

It may be illegal under the new banking for Zhilstroi to own real estate as an investment. Article 8 of the act limits the activities of banks as follows:

§8.1 All banks are forbidden to engage in activities in the sphere of material production and also trade with movable property and real estate (except for the currency valuables), the realization of all types of insurance activity (with the exception of the collective insurance of deposits), and also participation in the charter funds of legal entities with the exception of cases stipulated by point 3 of the present article.

§8.3 The ban imposed by point 1 of the present article does not apply to the following cases:

a) the participation of investment banks in the charter funds of legal entities performing the types of activity indicated in point 1 of the present article;...

Therefore, Zhilstroi Bank may have to form an investment bank or non-banking financial institution (NBFi) subsidiary to receive the unfinished projects from the GOK and hold the finished properties until title is conveyed to the buyers of the completed housing units. However, the establishment of an investment bank is subject to the same restriction as a deposit bank in that the charter capital of the bank must be paid in money. A non-banking financial institution is defined in Article 5 of the Banking Act as "a legal entity that is not a bank, which, on the basis of a license of the National Bank, is authorized to perform certain banking operations." The NBFi option also may not be permitted under the banking law because Article 8 of the Banking Act does not exempt non-banking financial institutions from the ban on bank ownership of shares in other companies.

The proposals for completion and sale of the housing units also raise operational and financial questions. Zhilstroi has no expertise or experience in construction management and will have to acquire and train a staff to manage these projects. Another concern is that the draft regulation for financing the completion and sale of the units does not give Zhilstroi the authority to take over the property maintenance and pro rate the cost among the owners if the home owners association does not adequately maintain the property. A provision giving Zhilstroi this authority should be included to protect and preserve their collateral.

Zhilstroi proposes to sell the completed housing units on a contract for sale, retaining title to the property until the debt has been paid in full. In the absence of specific laws governing the rights of the parties under a contract for sale, there is uncertainty about what rights the home purchaser has during the term of the contract. Of particular concern is whether the bank can take possession of the housing unit and evict the contract buyer if the buyer defaults in his payments. Zhilstroi may wish to consider a lease-purchase arrangement instead of a contract for sale because the laws regarding the rights and responsibilities of tenants and landlords may be more clearly defined in current Kazakstani law than the rights of buyers and sellers under a contract for sale. Lease-purchase financing has been introduced successfully in Russia.

D. MOBILIZATION OF FUNDS FOR HOUSING AND INFRASTRUCTURE

Another draft Resolution of the Cabinet of Ministers, "Concerning the Procedures for Establishing and Utilizing Nonbudgetary Housing Construction Funds" (see Annex B) authorizes the formation of public-private joint stock companies ("funds") to invest in and finance unfinished construction, new construction, infrastructure and housing rehabilitation. Local administrations, Zhilstroi Bank, enterprises, other organizations and individual shareholders would be the founders of funds in oblasts and rayons.

The goals of the funds authorized by the proposed resolution are:

- attracting funds from enterprises, organizations, and individuals for the purpose of housing construction by issuing shares, targeted bonds, bills of exchange, and setting up housing construction associations of individuals
- organizing completion of the construction of unfinished apartment buildings by attracting commercial developers through competitive bidding;
- purchasing unfinished housing from nongovernmental enterprises and organizations with shares of the fund; organizing completion of the projects;
- active work in real estate markets: purchasing complete housing and reselling it; facilitating improving housing conditions by exchanging housing with concurrent compensation for the price difference;

- allocating housing to the fund's stockholders according to the installment plans for the period of repayment of up to 10 years;
- investing in securities with temporarily surplus funds;
- encouraging individuals' participation in construction financing and purchasing housing;
- effective utilization of resources for forming housing markets as a condition for moving the labor force from high unemployment areas;
- facilitating the improvement of the housing construction industrial basis and providing residential development areas with adequate engineering-and-transportation infrastructure; and
- encouraging competition in the housing construction sector.”

The funds would mobilize resources from the following sources:

- “- voluntary donations of enterprises, agencies, public organizations, and private individuals of the Republic of Kazakhstan, as well as foreign legal and physical persons;
- targeted loans guaranteed by the heads of local administrations within their powers;
- dividends received due to transactions in the securities purchased with the temporarily surplus resources of the funds;
- payments for engineering, information, and other services provided by the funds' offices;
- founders' fees paid to the charter fund;
- monies received from selling the funds' stock;
- proceeds from selling finished projects;
- free transfer by government agencies of unfinished construction built with government funds; and
- other proceeds received in compliance with existing legislation of the Republic of Kazakhstan.”

The funds would be authorized to build social housing and social infrastructure, invest in infrastructure for housing development, build and repair communal services, provide housing allowances and purchase, rehabilitate and sell affordable housing units. The funds also would be used as a source of long term funding to support mortgage lending by Zhilstroï Bank.

The concept of public-private partnerships to mobilize funds for the housing sector is sound and has been recommended to the GOK by ICMA and other AID advisors. However the proposed resolution raises the same issues of conflict of law with the Banking Act which were discussed in relation to the proposal for Zhilstroï to own and dispose of unfinished housing projects. Article 8 of the Banking Act prohibits

banks from “participation in the charter funds of legal entities.” Furthermore, banks are prohibited from engaging in real estate “trade”. Therefore, Zhilstroi Bank may not be able to be a shareholder in funds which are organized as joint stock companies involved in real estate investment, development and brokerage. The only solution to this problem may be for Zhilstroi and the other proposed organizers to form an investment bank licensed by the NBK.

Other provisions of this resolution appear to violate the Banking Act. It would be illegal for the funds themselves to issue bills of exchange since a bill of exchange would be considered a deposit under the Banking Act and only licensed deposit banks are authorized to accept deposits. Since loan transactions are defined as banking activities and only banks may engage in banking activities, it also may be illegal for the funds to engage in lending.

In addition to these fundamental legal issues, there are other apparent problems with the proposal:

1. The scope of activities of the funds seems too broad and ambitious. The financing resources mobilized by the funds may not be sufficient to achieve even a part of their objectives.
2. It may not be realistic to expect that individual and institutional investors will purchase shares in the funds, since building social housing and social infrastructure, investing in infrastructure for housing development, building and repairing communal services, providing housing allowances and purchasing, rehabilitating and selling affordable housing which will not generate sufficient profits to pay investors a competitive rate of return.
3. This proposal concentrates all financing activities in Zhilstroi Bank and does not provide incentives for other banks to participate in the funds’ activities. Therefore, it may discourage banks from providing financing to developers and home buyers, particularly for units in unfinished buildings.
4. The proposal creates another layer of para-statal bureaucracy between the government and the market which could interfere with, rather than encourage, the development of the housing market. All founders of the funds would be government or state-owned entities. In some of its activities, the funds would compete with private investors and developers instead of providing incentives to private sector participation in the housing market.

E. INTEGRATION OF HOUSING FINANCE REFORM AND FINANCIAL SECTOR REFORM

It is important to the development of a housing finance system in Kazakhstan for housing finance to be more closely integrated into the financial sector and financial sector reform. The problems which arise if banking law and regulation are not taken into account when housing finance programs are designed have become apparent in the numerous conflicts between the new housing finance proposals and the Banking Act.

ICMA should take the lead in organizing a working group of AID and other donor sponsored financial sector advisors and representatives of the NBK, Ministroi and the Ministry of Finance to discuss housing finance issues and develop a housing finance sector reform work plan consistent with overall financial sector reform. The AID Mission could be instrumental in supporting cooperation between housing finance and financial sector advisors.

F. HOUSING FINANCE TRAINING

1. Advanced Professional Training Program in Real Estate Finance

In April, 1995, ICMA initiated its housing finance training program to prepare bankers to organize and manage housing finance operations. The first series of five courses will be completed in November, 1995. Over the last 6 months, several banks have moved closer to organizing real estate lending departments or subsidiaries. Therefore, the training program appears to have been timely. Weis and Brody believe that at least one bank, other than Zhilstroi Bank, will begin offering housing finance within the next year.

The training program has been well received by the participants. Through the training program, ICMA now has good materials about real estate lending which can be compiled into training manuals. Weis and Brody will organize the written materials produced for the courses and other materials prepared for the Russia housing finance training program into training manuals which will be made available to banks and training institutes and other organizations.

A related proposal is to invest the money generated through housing finance course registration fees in books, manuals and other training materials which would be made available to banks and other organizations through ICMA, the library at the Kazakstan Institute of International Banking (KIIB) or another institution. Weis made this recommendation to ICMA in her April trip report and encourages ICMA to authorize the purchase materials and compilation of a reference materials catalogue which would be disseminated to banks, real estate companies and government agencies.

One issue which requires resolution is the proposed U.S. practicum for the participants in the current housing finance program. This U.S. training was considered an integral part of the program which would give graduates practical experience which would prepare them to manage a real estate lending department, to lead in-house training at their own institutions and to participate as team-teachers in future ICMA housing finance training. It would be difficult for the participants to be effective trainers if they had no exposure to how the principles and practices taught in the courses are actually applied in market housing finance systems.

2. Institutionalizing Real Estate Finance Training

ICMA is exploring options for institutionalizing the real estate finance training program. The current program is offered in cooperation with the KPMG Peat Marwick/Barent's banker training program through the Kazakstan Institute of International Banking (KIIB).

Barent's also is seeking a local institution through which its banker training program can be offered in the future. Other options include KIMEP, the Academy of Management, the School of Architecture, the NBK's Gylim Institute and a new program being developed with funding from the Soros Foundation.

It is recommended that real estate finance training be integrated into the banker training program in whatever institution(s) becomes the principal provider of banker training in Kazakhstan. In the interim, the managers of the Barent's program are receptive to including one or more housing finance courses as electives in the banker training curriculum. ICMA and Barent's should agree that one or two courses be included in the Barent's program beginning in March or April, 1996. If there is a market for these classes, they could become a permanent part of the Barent's curriculum.

Specific elements of the ICMA real estate finance training program may be appropriate for non-banking professionals. Several of the participants in the current training program are professors at the School of Architecture. Their primary reason for enrolling in the program was to gain expertise so that they could add one or more courses in real estate finance to their curriculum. ICMA should discuss how it can assist the faculty members in developing their real estate finance curriculum. ICMA also should explore the possibility of the Real Estate Association offering a real estate finance seminar to its members.

G. TECHNICAL ASSISTANCE TO INDIVIDUAL BANKS

ICMA has not offered extensive technical assistance (TA) to individual banks. ICMA has responded to requests for TA on specific proposals developed by Zhilstroi Bank and has organized meetings at Zhilstroi and other banks for visiting instructors in the real estate finance training program. Zhilstroi has indicated that it would like more intensive TA, but has not clearly defined what specific TA they need. ICMA will continue to respond to specific requests from Zhilstroi and should encourage Zhilstroi to submit a TA proposal outlining the specific areas in which it requires technical assistance.

Other banks (Igilik, Alem Bank, and Turan Bank) are beginning to seriously consider creating real estate finance departments and have indicated that they would like ICMA to provide TA to support their efforts. ICMA should determine the extent of TA it would provide to individual banks. Experience in other countries has shown that TA to set up a housing finance department can involve a significant level of effort.

It is recommended that ICMA offer TA at two levels: 1) manuals of policies, procedures and documents which would be given to banks considering establishing real estate loan departments and 2) limited targeted TA for those institutions which have developed at least some plans and programs on their own initiative. For example, ICMA could offer to review and comment on the policies and procedures developed by the banks using the manuals provided and work with the staff responsible from implementing a real estate lending function. ICMA probably should not provide TDY experts to a bank until

the bank's senior management or board of directors have taken some formal action to approve the development of real estate financing at the institution.

ANNEX A
PROPOSED RESOLUTIONS AND REGULATIONS
FOR THE DISPOSITION OF
UNFINISHED CONSTRUCTION

REGULATIONS CONCERNING DISPOSITION OF UNFINISHED CONSTRUCTION

I. General regulations:

1. The regulation concerning the disposition of unfinished construction determines the implementation of investment and commercial competitions for transferring unfinished construction and their sale, which are currently owned by the State, including those which are under the management and control of enterprises and which are financed from the State budget, except for buildings for young people.

Separate apartment buildings or parts of buildings, constructions, and the equipment, fixtures and other items associated with housing complexes which include several apartment buildings and buildings for social services together with all plans and other project documentation (hereafter called "objects") are to be transferred for completion and sale in conformance with the current regulation.

2. In conformity with the present regulations, the following objects, the construction of which has been stopped or delayed because of the lack of financing and the lack of provision of technical resources which are necessary for completion of construction within the specified period of time and also the constructions which were postponed for completion shall be offered for commercial and investment competition.

3. The transfer of these objects for completion and sale will be carried out by the original owner. The rights of the original owner which are foreseen by the present regulations in cases where the customers were executive departments of budget organizations are transferred to state commercial development companies or to oblast construction committees. According to regulations of the Ministroi, State Property Committee and State Privatization Committee, which are issued together with the adoption of the decision concerning the transfer of construction for completion or for sale of unfinished constructions. At that time, executive departments and budget organizations which have transferred the rights of the original owner to a new authorized organization retain a right to a share of the finished construction.

4. The transfer of buildings for completion when the completion will be implemented with preserving a part of the property rights for the original owner, the transfer is conducted through a competition. This competition is announced for share participation in the constructing of a new house for the amount of funds which are necessary for completing construction and providing completed units within the time specified for completion. Before the competition begins, the original owner and the winner(s) of this investing competition shall determine their respective rights in the common property of the finished construction. Any sums expended for construction of the buildings which are due to contractors but which have not been paid are taken into consideration in determining the share in the finished construction. These shares of the original owner, of the contractors and of the winner(s) of these competitions are determined in square

meters of the useful living area, in square meters of the common areas and in square meters of non residential area of the building. The shares are determined in proportion to the cost of actual expenditures made for construction (the cost of implemented and paid works and services) and also in proportion to the cost of further expenditures for completion of the construction as of the date of estimation of the price of the housing units. When determining these shares, the cost of improvements of the site and the engineering infrastructure must be taken into consideration. These shares must be settled in the terms and conditions of the competition.

5. The investing competition can be:

- Open, i.e. any legal or physical persons may be eligible to bid;
- Closed when the participants are restricted to legal and physical persons which receive an invitation to bid. The organizers determine the criteria for eligibility to bid.

The primary right for participating in a closed investing competition for completion of construction, the original owner of which were the state enterprises, budget organizations are granted to the workers of these enterprises and these organizations and to people who need improvement of their housing conditions and which are on the housing list of the cities in which the buildings are located and also to repatriates and to veterans.

6. After signing the minutes of the results of the competition the original owner or their representative and the winner(s) of the competition shall enter into an agreement for finishing the construction. After the completion of construction, the real estate shall be registered in accordance with the legislation.

7. The agreement for completion of construction shall provide:

- The shares of the original owner and the winner in the rights to the common property of the completed construction;
- The process by which the winner(s) of the competition will acquire property rights in the property during the period of construction.

8. The original owner of the object can use his share in finished construction in the form of subsidies given to certain categories of winner(s) of a closed investment competition (people on the housing list, repatriates and veterans).

9. In making a decision regarding the sale of these unfinished constructions, a commercial competition is announced and the obligatory terms of this competition must be the completion of the construction with the further right of the sale of the finished construction. On the results of this commercial competition, the original owner and the winner(s) sign a purchase and sale agreement.

II. The Process of Organization of Investment and Commercial Competitions

10. All decisions about holding bids for the properties that were built to the order of executive bodies, organizations and agencies funded from the state budget, as well as

those about the form of their bids and their sponsor, shall be made by the Ministry of Construction, Housing and Development of Territories, the State Property Committee and the State Privatization Committee, together with local executive committees, depending on the location of the property. The same procedure shall apply to making decisions about the properties that were built to the order of state-owned enterprises if this initiative was taken by the enterprises. A decision about holding a bid competition for properties built to the order of state-owned enterprises may also be made by these enterprises independently.

11. The bids shall be organized by a legal entity engaged in the activities on organizing and holding commercial and investment bids in order to complete construction and sell unfinished construction.

The sponsor shall form a committee on holding bids and identifying the winner. The committee must include the representatives of the sponsors (oblast construction management, state property management, and privatization management agencies), as well as representatives of financial agencies. The general contractor for the project is also entitled to participate in the work of the committee. The committee may also include representatives from design, examination, advisory, and other specialized agencies.

The chairperson of the committee shall be approved by the Ministry of Construction, the State Property Committee, and the State Privatization Committee, together with executive bodies, depending on the location of the property.

12. The committee shall establish and approve the procedure for its work on its own. All decisions shall be made by the majority vote of all committee members. In cases of tie vote, the decision supported by the chairperson shall prevail.

13. The committee shall be responsible for the following major tasks:

- taking inventory and making a property appraisal report;
- accepting a draft construction completion report;
- organizing and holding bids; and
- preparing draft sales agreements or agreements on completing construction, as well as other required documents.

14. The committee shall prepare and obtain required approvals for

-the inventory and appraisal reports - within a month after the decision on holding bids has been made. These reports must include:

- a) for an investment bid - shares of the property owner and of the bid winner in the common shared ownership right to a completed apartment building;
 - b) for a commercial bid - its starting price
- draft construction completion report;

- draft agreement on completing construction and other required documents - in cases of investment bids; and
- draft sales agreement - in cases of commercial bids.

The committee must also make sure that the appropriate documents certifying the rights to the land parcel are available.

15. The committee shall be entitled to demand :

- taking inventory of the property within the established term;
- providing the committee with accounting and other information on the property required for holding bids; and
- making appraisals and preparing property appraisal reports

from the management of the property under question.

16. The committee shall organize a bid in the following order. It shall:

- make a decision on the terms of the bid;
- make a technical-and-economic description of the property;
- publish an announcement about the bid;
- follow the procedure for holding bids;
- identify the winner;
- establish the procedure for and terms of settlements;
- prepare and send a letter to the winner saying that the winner's proposal has been accepted and inviting the winner to sign a sales agreement for the purpose of completing construction (in case of a commercial bid) or an agreement on completing construction (in case of an investment bid), as well as other required documents; and
- publish an informational bulletin about the results of the bid.

17. The informational bulletin about holding a bid shall be prepared on the basis of the submitted documents and provided to potential bidders through the following procedure:

- a) in cases of open bids - through publications in the press; and
- b) in cases of closed bids - by mailing the bulletin (by regular or express mail, etc.) to potential bidders; the list of these bidders must be published in the press.

18. The informational bulletin about holding a bid must include the following information:

- the name of the property and the name of the agency or organization that manages the property;
- the location and a technical-and economic description of the property;
- estimated costs of completing the property, actual construction costs as of the date of making the above estimates and in comparable prices;

- sources of funding actual expenses on building the property;
- the area of the allocated land plot and the rights to the plot (use, lease, or ownership);
- the technical condition and degree of completion of the property;
- the date when the construction of the property was started and the most recent date of doing the work on the property, or suspending the construction work;
- the procedure for getting familiarized with the design documentation;
- the established deadline for the completion of construction;
- terms of the bid and criteria for identifying the winner;
- a list of documents to be submitted to the committee;
- a form of payment and installment arrangements in cases of payments by installments;
- the deadline for accepting requests for proposals and other documents required for participating in the bid;
- the amount of the preliminary deposit and the number of the bank account where the deposit must be transferred;
- the date, place , and hour of disclosing envelopes with the bidders' proposals;

19. The initial price of the object for commercial competition is determined on the basis of estimation documentation in the amount of actual expenditures for the construction (actual and implemented and paid works and services) in current prices.

20. From the time of publication of the information about the competition, the property is available for inspection to all the people who want to take part in this competition.

21. The sum of the deposit for participating in the competition will be 10 percent of the amount of the expenditures which will be require to complete construction.

III. The Process of Conducting the Competition

22. Construction companies of all forms of ownership, legal and physical persons who have applied within the specified time and who presented all other the required documents described in paragraph 26 of the present regulations and who have made a deposit to the account specified in the information announcement, are allowed to participate in commercial or investment competitions.

23. The proposal of the participants concerning fulfilling the terms and conditions and their conformity to the criteria for determining the winner(s) of the competition are submitted in a sealed envelope.

24. The obligatory terms and conditions of investment competitions are:

- The completion of the construction of the object in the time specified;

- The use of the object and its components in accordance with their purposes and the determination of project documentation;
- Investment in the amount necessary for completion of the construction of the object;
- Payment of commission in the amount necessary to complete construction of the object;
- Payment of commission fees and expenses for organization of the competition. The main criteria for determining the winner of the competition is the proposed period for completion of construction of the object, which cannot be longer than the period set in the terms and conditions of the competition.

25. The obligatory conditions for commercial competitions are:

- Purchase and completion of construction in a specified period of time with the right for further sale of the finished objects;
- The use of the object and its components in accordance with their purposes determined by the project documentation;
- The payment of commission fees and expenses for organizing the competition;

The winner(s) of the competition is the participant which offered the highest price and who accepts all of the terms and conditions of the competition.

26. The following documentation must be presented to the commission:

- Application for participation in the competition
- Proposals for implementing the terms and conditions of the competition and conformity to the criteria for selection of the winner(s) of the competition submitted in a sealed envelope;
- Copy of the payment document which proves that the deposit on the account has been made or that cash has been paid to the organizer;
- Documents that prove the payment ability of the participant

Documents that prove the right for receiving state or municipal apartments according to the housing list (in case of closed investment competition) for people who have these rights. The commission controls all the established formal demands and the presence of information that is demanded and the documentation that is presented in the applications.

27. The applicant could be refused to participate in the competition if he does not pay the deposit or did not submit all the required documentation by the deadline for submission of proposals.

28. After evaluating the applicant, the commission sends a written notice to the applicant about his eligibility to participate in the competition and the date of registration of his application. From the moment of receipt of written notice, the applicant acquires the status of a participant in the competition.

29. After the period of accepting the applicants is over, the commission at its meeting makes a minute where all of the applications are enumerated. The list of applicants who have been approved as eligible to participate in the competition and the list of applicants who have been rejected are attached to the minute of the meeting.

30. The participant has the right to withdraw his application before the date the competition begins. He must give written, fax or telegraphic notice to the commission of his intent to withdraw his application. In this case the participant will receive a refund of his deposit.

31. At the appointed date and hour at the meeting of the commission, all sealed envelopes are opened and the proposals of the participants are read aloud. The participants of the competition or their authorized representatives may be present at the bid opening. The commission shall make a minute where all of the proposals are described. In case of two or more equivalent proposals in which the amount bid is the same, an open tender will be organized among the participants who have submitted equal bids according to the criteria established by the commission, while conducting a commercial competition, the initial price should be the price offered by these participants and which conducting the investment competition, the initial date of completion of construction must be the date proposed by these participants. The decision about the winner(s) of the competition will be made by the commission on the day of the bid opening. The commission will prepare a final minute which contains the following information:

- The name of the object, the membership of the commission, the information about the participants, terms and conditions of the competition, the name of the winner;
- The final price of the object, the date of completion of construction of the object, the form and the period of payment

The commission prepares a letter to the winner in which it informs him that his proposal has been accepted and invites him to execute an agreement for finishing the construction (in case of investment competition) or a purchase and sale agreement (in case of commercial competition) and these documents are attached to the minutes of the final meeting. A copy of these minutes is sent to each participant in the competition. The organizer sends a letter to the winner which informs him about the acceptance of his proposal and invites him to execute a purchase and sale agreement or an agreement for finishing the construction. The winner of the competition must sign the minute about the results of the competition within a specified period of time. The minute is signed by the winner or by his authorized representative and by the chairman of the commission in two copies, one copy of which is given to the winner for making an agreement for finishing the construction or purchase and sale agreement. In the event the winner refuses to sign the minute of the results of the competition, he forfeits the deposit. Then the commission selects the participant as the winner whose proposal was the next in order after the original winner. The minute is rewritten. In the event the next participant also does not sign the minute, his deposit is forfeited and the results of the competition are annulled.

32. If only one application is submitted to participate in the competition and the participant accepts all of the terms and conditions of the competition and offers a price not lower than the initial price (for a commercial competition), or the date of finishing the construction is not longer than the established date (for an investment competition) then this participant is the winner. In case the sole participant in the competition refuses to sign the minute about the results of the competition or refuses to sign the agreement for finishing construction or the purchase and sale agreement, this competition is annulled and the participant's deposit is forfeited.

33. The results of the competition could be protested in the established order within 30 days of receipt of the minute.

34. Within 30 days after the decision on the results of the competition, the organizer is required to publish the results of the competition in the newspaper.

IV. Agreements for Finishing Construction and Purchase and Sale Agreements

35. Within 20 days after the date of written notice to the winner of the competition an agreement for purchase and sale or an agreement for finishing construction, as applicable, must be concluded between the winner and the original owner of the object or their authorized representatives.

36. Within 2 days after the signing of the minute of the results of the competition, the organizer of the competition sends the minute of the results of the competition to the original owner of the object or to their authorized representative.

37. If the winner refuses to conclude an agreement for purchase and sale or finishing construction, the results of the competition are annulled and the winner forfeits his deposit.

38. In accordance with the time period and form of payment which are determined by the purchase and sale agreement, the winner is obligated to pay the amounts to the account specified in the agreement or to pay the sum in cash in the amount established by the competition.

39. The sum of the deposit paid by the winner of the competition is included in the amount of the payment. The deposits paid by the other participants in the competition will be refunded within 10 days of signing of the final minute of the competition.

40. The proceeds received by the sponsor from the winner shall be used in the following way:

a) in case of a commercial bid, the proceeds in the amount of actual expenses on building the project (money spent on actually done work and provided services) shall be addressed to the original investor in the project up to the amount of the investor's actual expenses and with due regard for the increased amount of the expenses in comparable prices. Then all expenses on organizing

and holding the bid borne by the organizer shall be compensated for. The rest of the proceeds shall be distributed according to the procedure established by law;

b) in case of an investment bid, the expenses on organizing and holding the bid, including all relating fees shall be compensated for by the organizer with the funds provided by the winning bidder.

REGULATIONS CONCERNING FURTHER DEVELOPMENT OF HOUSING MARKETS

Almaty city

August ____, 1995.

In order to fulfil the tasks included in the Presidential decree "Concerning a New Housing Policy", create favorable conditions for forming full-fledged housing markets, reduce the expenses on supporting unfinished housing construction projects, and provide their completion, the Cabinet of Ministers of the Republic of Kazakhstan decrees:

1. Ministries, departments, and local executive bodies, as well as state-owned enterprises, agencies, and organizations, shall be guided by the Regulations "Concerning Disposition of Unfinished Housing Construction" and "Concerning Attracting the Population's Funds to Zhilstroibank's Housing Savings and Loan Accounts for Completing the Unfinished Construction" approved by the Ministry of Construction, the State Privatization Committee, and the State Property Committee.
2. Establish that of the unfinished state-owned housing construction projects (including those in full economic management of state-owned enterprises, agencies, and organizations), the construction of which has been terminated or suspended because of the lack of funding from the state budgetary resources, the following projects shall be subject to:

- transfers to the Charter fund of Zhilstroibank - the projects having the degree of completion of at least 50 per cent. In this event, state commercial developers shall perform the function of developers of these projects; the funds of the population from housing savings and loan accounts should be attracted, and the population must have payment by installments to cover the previous expenses for the period to 10 years for 5% of annual interest;
- transfers to legal entities or private individuals at investment bids, or sales at commercial ones- for completion of the construction - the projects with less than 50% degree of completion. Such transfers and sales may take place on the conditions stipulated by the Regulation "Concerning the Procedures for Transferring Unfinished Housing Construction Projects for Completion and Sale".

The decision concerning the transfers or sales of above-mentioned housing construction projects shall be made by the Ministry of Construction, the State Privatization Committee, and the State Property Committee in coordination with national executive agencies that are the developers of the projects.

3. Establish that the Zhilstroi Bank must transfer up to 20 per cent of the housing that is included in its charter fund to the original owner in order to allocate these apartments to the people who are on the waiting list. This transfer will be made upon completing the projects under question.

4. Determine that the proceeds received from the sale of unfinished construction projects with less than 50 per cent degree of completion, with the exception of expenses on organization of a commercial competition (bid), shall be transferred to the Zhilstroi Bank to replenish the credit resources to be used for building housing for those on a waiting list.
5. Within a month, the oblast and the Almaty City administrations shall prepare a complete list of started and incomplete construction projects that used to be financed with governmental funds and submit it to the Ministry of Construction. This list must include information on the degree of completion of the projects, the amount of the investments that have been already made, as well as of those that are needed to complete the projects.
6. Recommend that the National Bank of the Republic of Kazakhstan should provide medium-term credit resources to be used for encouraging housing markets (transactions secured by real estate) to the Zhilstroi Bank.
7. Within two months, the State Privatization Committee and the Zhilstroi Bank, together with the Ministry for Social Protection, the Ministry of Construction, and other concerned ministries and departments, shall prepare proposals on further use of remaining housing coupons owned by the public and submit these proposals to the Government of Kazakhstan.

Minister
of the Ministry of
Construction, Housing
and Territory Development

_____A. Tshanov

_____ August, 1995

Chairman
of the State
Committee on
Managing
Goskomimushestvo

_____S. Kalmurzaev

_____ August, 1995

Chairman
of the State
State Committee
on Privatization

_____E.Utepov

_____ August, 1995

Confirmed
Chairman of the Board
President of Zhilstroi Bank
_____M. Sagindykova
_____ August, 1995

R E G U L A T I O N

On Order of Attracting Funds of Population for Housing Savings-and-loan Accounts of Zhilstroi Bank for the Completion of the Construction of Unfinished Apartment Buildings.

1. The present Regulation defines the conditions and procedures of implementing the housing savings-and-loan accounts (Zhilsberschet) of Zhilstroi Bank or accumulating on them the funds of the population and legal entities for the completion of construction of state-owned unfinished apartment buildings in which at least 50% of the construction has been completed which have been transferred to the charter fund of Zhilstroi Bank.
2. Zhilstroi Bank receives the unfinished state housing construction, with the degree of readiness of 50% and more, on the basis of acts of acceptance-conveyance and organizes the work on attracting the funds for the completion of construction and sale of the finished housing to the population.
3. The sources for financing the completion of the unfinished apartment buildings are:
 - funds of the population, attracted by the bank on savings-and-loan accounts in an amount sufficient to complete the unfinished construction;
 - budget subsidies and privileged credits to the population, envisaged by the State program of the new housing policy, in such cases where the borrowers' agree to repay the credit within 10 years;
 - funds of enterprises and organizations, given to their employees who are owners of the savings-and-loan accounts;

- funds of the housing lottery of Zhilstroi Bank, contributed to the development of the housing construction;
- state loans for housing;
- housing bonds through which bond holders buy the house incrementally;
- housing privatization coupons within the limits of the allotted funds for their exchange;
- shares, bills and other marketable securities of the citizens after their preliminary evaluation.

4. Two types of housing savings-and-loan accounts are offered:

- concrete: accounts in which account owner deposits the amount of funds necessary to complete construction of the housing unit being purchased and pays the balance of the price of the housing unit in instalments which fully amortize the amount of the credit, plus interest;
- simple - accounts in which the account owner deposits funds during a specified time in an amount sufficient to complete construction of the unfinished objects and purchase a house.

5. Zhilstroi Bank opens a separate master Zhilsberschet for each building or group of buildings (depending on conditions and terms of the construction), determines the cost of financing the completion of the unfinished construction and purchase of the finished units and develops the schedules for attracting funds on the savings-and-loan accounts.

6. Deposits on the concrete Zhilsberscheta are accepted from physical persons and legal entities who can invest their own funds in the full amount required for completion of the housing unit being purchased in the unfinished apartment building and carry out the payment on the balance of the purchase price (the earlier expenses) by instalments for a term of up to 10 years at the established rate of interest. A variable rate of interest, indexation of the amount of debt to the rate of inflation and other methods may be used.

7. The bank concludes a contract with each concrete Zhilsberschet account owner specifying the order and conditions of his participation in the process of completion of the housing building, opens the concrete Zhilsberschet for him and develops the schedule of depositing the funds necessary for completion of the housing unit being purchased.

Funds contributed by members of a Zhilsberschet owner's family, enterprises and organizations where the account owner works and voluntary (charitable) payments of physical persons and legal entities may be deposited in the Zhilsberschet.

Deposits into the Zhilsberschet may be made monthly in equal amounts or as applied to the procedure of fulfilling of the works by the contractor. The conditions of making deposits in the Zhilsberschet are stipulated in contracts concluded between the bank and the account owner. On the basis of the established schedules, the bank controls

the timeliness and completeness of the payments depositing on Zhilsberscheta. No interest is paid on funds held on deposit in a concrete Zhilsberschet

8. Persons who deposit their own funds in housing savings-and-loan accounts in an amount equal to the entire amount of the cost of the unfinished housing unit, may extend the time for repayment in instalments of the balance of the purchase price of the housing unit by two years.

9. In the case where an account owner fails to repay the entire amount agreed to within the time specified in the contract between the bank and the account owner, fines are applied in the order established by the National Bank.

10. If in the course of completing the construction of the unfinished building, it is determined that the cost to complete of the building has increased, the bank and the owners of the Zhilsberschet agree to adjust the amounts which must be deposited for completion of the construction and the contracts are amended to reflect such higher amounts.

11. In the case of a Zhilsberschet's owner's refusal to make deposits in accordance with the contract, he must give the bank not less than for 2 months written notice. On the expiry of the notice period, the bank returns the accumulated funds to the Zhilsberschet's owner and registers the account in the name of a new owner.

12. For opening the simple housing savings-and-loan account between the bank and the physical person the agreement is concluded in which the conditions and terms of accumulation and the rate of interest on the funds accumulated are stipulated. A schedule is established for accumulating funds in the simple Zhilsberschet. The owner of a simple Zhilsberschet may apply to the bank to transfer the funds from this account to a concrete Zhilsberschet for participation in financing of completion of unfinished construction of the apartment buildings.

13. After finishing of the construction of the apartment building or group of apartment buildings the master Zhilsberschet is closed. The completed apartment building or group of apartment buildings is operated by the residents without the right of directing (ownership?) until the cost of the purchased housing is completely repaid.

An agreement is concluded between the bank and the residents of the apartment building or group of apartment buildings in which the conditions of use and maintenance of the common parts of the building and the common land parcel are stipulated.

14. After the construction of the apartment building is finished, the bank calculates the selling price of each apartment on the basis of it's real cost. The repayment of the price of the completed housing unit, after deduction of the funds deposited by the owner for it's completion, is made in instalments for a term of up to 10 years at an interest rate of five per cent per annum. The term of the payment in instalments is established for each resident individually, taking into account the level of his solvency. The resident presents to the bank his personal current liability on paying back the debt and the schedule of it's repayment annually. The repayment of the cost of the unfinished

construction of the apartment building in instalments and calculation of interest is indexed in the order established by the bank and stipulated in the agreement.

15. The bank maintains insurance on the completed and occupied apartment buildings and passes through the expenses of this insurance to the residents.

16. When the cost of the housing purchased in instalments has been repaid in full, the residents receive the rights of ownership and become the owners. The ownership right to the housing is established by the purchase and sale agreement between the bank and the residents, which is registered and certified in the notary's office.

17. The owners of the apartments, on a voluntary basis, define the form of managing the apartment building and create the organization for maintaining and operating the building in accordance with the Housing Code of the Republic of Kazakhstan and other normative acts of the current legislation.

18. The funds received by the bank on account of the cost of the housing sold are the credit resources of Zhilstroj Bank and in future are directed to the development of the housing area.

ANNEX B

PROPOSAL TO MOBILIZE NON-BUDGET FUNDS FOR HOUSING

RESOLUTION
of the Cabinet of Ministers of the Republic of Kazakhstan
Concerning the Procedures for Establishing and Utilizing
Local Nonbudgetary Housing Construction Funds

For the purposes of supporting housing construction and expanding utilization of nonbudgetary sources of funding the housing sector, the Cabinet of Ministers of the Republic of Kazakhstan

DECREES:

1. Approve the attached sample Procedures for Establishing and Utilizing Local Nonbudgetary Housing Construction Funds.
2. Recommend that local administrations establish local nonbudgetary funds for expanding housing construction in order to utilize the resources to be accumulated in these funds for building "social" housing [i.e. for socially protected groups - *Translator's note*], for improving the housing construction production basis, and providing engineering infrastructure for residential development areas.
3. The Ministry of Construction, together with the Zhilstroï Bank of the Republic of Kazakhstan, within two months shall prepare a package of documents and carry out all necessary work on establishing and servicing these funds.

Prime Minister

A. Kazhegeldin

Approved
by the Resolution of the Cabinet of Ministers
of the Republic of Kazakhstan # _____
as of _____ 1995

SAMPLE PROCEDURES
for Establishing and Utilizing
Local Nonbudgetary Housing Construction Funds

I. General Provisions

1. These Procedures shall determine the general principles of establishing and utilizing nonbudgetary housing construction funds set up in compliance with the *State Program for a New Housing Policy and Mechanisms for its Implementation* approved by the Presidential Decree # 1344 *Concerning a New Housing Policy* as of September 6, 1993.
2. A decision on establishing local nonbudgetary housing construction funds (hereinafter referred to as *funds*) shall be made by the heads of local administrations.
3. The local nonbudgetary housing construction fund will be an open-type joint-stock company set up according to a decision to be made by local administrations in all oblasts and rayons of the Republic of Kazakhstan on the basis of existing legislation, the regulation on the fund, with due regard for local conditions and peculiarities.
4. Local administrations, the Zhilstroi Bank and its local branches, enterprises and organizations, as well as natural persons, shall be the founders of the funds.
5. Legal entities owning unfinished construction projects that they have transferred to the fund in exchange for the shares, as well as organizations and private individuals that have purchased the fund's shares.

II. Basic Goals of the Funds

6. The funds shall be established for the following goals:
 - attracting the funds owned by enterprises, organizations, and individuals for the purpose of housing construction by issuing shares, targeted loans, bills of exchange, and setting up housing construction associations of individuals;
 - organizing completion of the construction of unfinished apartment buildings by attracting commercial developers through bids;
 - purchasing unfinished housing from nongovernmental enterprises and organizations with concurrent exchange of the units for the funds' shares; organizing completion of the projects;
 - active work in real estate markets: purchasing complete housing and reselling it; facilitating improving housing conditions by exchanging housing with concurrent compensation for the price difference;
 - allocating housing to the fund's stockholders according to the installment plans for the period of repayment of up to 10 years;
 - making transactions in securities to be purchased with temporarily surplus funds;

- encouraging individuals' participation in construction financing and purchasing housing;
- effective utilization of resources for forming housing markets as a condition for moving the labor force from high unemployment areas;
- facilitating the improvement of the housing construction industrial basis and providing residential development areas with adequate engineering-and-transportation infrastructure; and
- encouraging competition in the housing construction sector.

III. Forming the Funds' Resources

7. The funds' resources shall be formed from the following sources:

- voluntary donations of enterprises, agencies, public organizations, and private individuals of the Republic of Kazakhstan, as well as foreign legal and physical persons;
- targeted loans guaranteed by the heads of local administrations within their powers;
- dividends received due to transactions in the securities purchased with the temporarily surplus resources of the funds;
- payments for engineering, information, and other services provided by the funds' offices;
- founders' fees paid to the charter fund;
- monies received from selling the funds' stock;
- proceeds from selling finished projects;
- free transfer by government agencies of unfinished construction built with government funds; and
- other proceeds received in compliance with existing legislation of the Republic of Kazakhstan.

IV. Purposes of Utilizing the Funds' Resources

8. The funds' resources shall be spent for the following purposes:

- building the social [i.e. for socially protected groups] housing stock;
- the engineering preparation of sites for new housing construction;
- construction and repairs of communal amenities;
- construction of social infrastructure projects;

- social protection of low income families in terms of covering their expenses on building, acquisition, and maintaining housing;
- improving the housing construction basis;
- purchasing securities, including those issued by the government, in order to get profits to be allocated for housing construction purposes;
- transferring funds to the Zhilstroi Bank in order to use them for issuing mortgage and other secured loans to individuals;
- purchasing inexpensive used housing units and repairing them for subsequent selling to the public; and
- other purposes aimed at implementing the housing policy.

V. Fund Administration

9. In its activities, the fund shall be governed by the *Regulation on the Fund* to be developed on the basis of this sample Procedure and approved through the established procedure.

10. The *Regulation on the Fund* shall establish the procedure for its formation, the procedure for spending fund's resources and control of their utilization, as well as the functions of the management.

11. The fund's managers shall be responsible for the targeted utilization of the fund's resources.

12. The fund's management may include representatives of the agencies of state power, of the heads of administrations, of Zhilstroi Bank and its branches, of other concerned enterprises, agencies, and organizations, as well as other natural persons.

13. The receipts and expenditures of the funds' resources shall be recorded in special accounts to be opened at the Zhilstroi Bank and its branches. The funds' deposits shall not be subject to taking, and they shall be used in accordance with the goals specified in the *Regulation on the Fund*.

The Zhilstroi Bank and its branches shall be responsible for the complete servicing of the fund, i.e. for:

- opening the fund's bank account;
- performing the functions of the depository of the fund (registration and keeping the register of the stockholders);
- making transactions in securities on the stock exchange as instructed by the fund;
- providing the support in issuing all kinds of securities;
- crediting the fund or providing guarantees if necessary;

- drawing up and issuing loans to individuals from the fund's resources;
- controlling the repayment of loans and receipts transferred to the fund's account;
- supporting the fund in distributing its own securities; and
- acquiring the housing from the fund for their borrowers if necessary.

VI. Distribution of the Fund's Profits

15. The balance profit and the net profit of the fund are determined according to existing legislation.

16. The net profit of the fund (after tax profit) shall be kept by the fund and distributed between the founders (stockholders) in the form of dividends, transferred to the reserve fund, and spent on the development of the national economy or other needs according to the decision of the general meeting of the founders.

On the founders' decision, the dividends (in the process of accumulation of the necessary sums) may be paid in the form of housing units, with further installment for 10 years, through ZHILSTROI BANK, or on other conditions.

VII. Control of the Use of the Funds' Resources

17. The form of controlling the fund's expenditures and the dates for presenting the reports on their use shall be determined in accordance with the *Regulation on the Fund* and budget regulating acts.

